

AAdministrative
Services
Letter

05-05
Incompatible Activities
Statement



Personnel ASLs

Signed By	/s/ Marie LaVergne, Chief Administrative Services Division	Number	05-05
Distribution	All Employees	Date Issued	May 17, 2005
Subject	Incompatible Activities Statement	Expires	When Canceled
Guide Section	Personnel	Reference	Cancels 87-06

The ARB Incompatible Activities Statement is being reissued under a new ASL number to show that legal review of the policy has occurred and no significant changes were necessary.

If you have any questions regarding this statement, please contact ARB's General Counsel at (916) 323-9606.

AIR RESOURCES BOARD

INCOMPATIBLE ACTIVITIES STATEMENT

The preservation and assurance of the integrity of the California state service requires that state officers and employees comply with appropriate standards of conduct. It is neither the desire nor intent of the Air Resources Board (ARB) to infringe upon the private lives of its employees. However, as ARB employees, it is our obligation to avoid actions and activities which are clearly inconsistent with the effective performance of our duties. To avoid inadvertent involvement in an incompatible situation, an employee who is engaging in, or plans to engage in, any employment, activity, or enterprise which may be reasonably expected to prove incompatible, or interfere with their duties or with the functions or responsibilities of ARB, should submit a written statement of the circumstances to the Executive Officer through supervisory channels. The Executive Officer with consultation from the ARB General Counsel will issue a written ruling to the employee upon such request.

[Government Code Section 19990](#)

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I. Government Code Section 19990

Government Code Section 19990 provides as follows:

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.

- (d) Receiving or accepting money or any other consideration from anyone other than the State for the performance of his or her duties as a state officer or employee.
- (e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the officer or employee.
- (f) Receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.
- (g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

II. Additional Standards Applicable to Officers and Employees of the Air Resources Board

- A. No employee shall engage in the private practice of her/his profession in a manner which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state employee except with specific written approval from the Executive Officer.

While it is not ARB's desire to monitor the non-working time of its employees, any employment which represents potential incompatible activity should be cleared by the division chief and the Executive Office prior to acceptance or solicitation.

- B. No employee shall give performance for salary, honorarium, or compensation of any nature, for any other governmental or non-governmental agency, private firm or organization, or at an educational institute or in conjunction with an educational institute during sessions, workshops, or lecture tours so that such person is receiving a dual compensation (one from such agency, firm, organization, or institution and one from the State) for the same period of time. This does not apply to employees while they are on vacation or compensating time off and does not apply to travel and per diem expenses unless reimbursed by the State.

When a given curriculum or teaching project is supported by federal or other financial grants which are made to universities through ARB, members of the staff of ARB may not, under any conditions, accept compensation for services or payment for travel expenses. This policy must be followed regardless of whether the teaching under such grants is done during normal working hours or outside of working hours.

- C. No employee shall divulge any ARB information, data, names, lists, or records designated as trade secrets, unless officially authorized or legally required, nor shall any employee use during or outside of office hours any ARB symbol, badge, identification card, records, information, facilities equipment, supplies, or influence of a state position for personal gain or advantage.
- D. No employee shall initiate contact with state administrative or legislative personnel for the purpose of presenting the ARB's policy on legislation, amendments, initiative or referendum petitions unless such act is a part of the employee's official duty assigned or authorized by the Executive Officer. All employees shall report promptly to the Executive Officer the substance of any contact they have with state administrative or legislative personnel concerning ARB's policy on legislation, amendments, initiative or referendum petitions. Every private citizen can initiate contact with the state administrative and legislative personnel for the purpose of representing her/his own personal beliefs regarding legislation, amendments, initiative or referendum petitions.
- E. No employee shall have an undisclosed financial interest in any organization, firm, corporation, or with any person who is subject to regulation, inspection, licensing, testing, certification, or audit by ARB. Prior to entering into any partnership, or employment with an organization, firm, corporation, or person who is subject to regulation, inspection, licensing, testing, certification, or audit by ARB, the employee must obtain a determination from the Executive Office that such activity is not incompatible with the employee's duties at ARB, and the determination must be confirmed in writing by the Executive Office (revised 2/81).
- F. No employee shall receive undisclosed gratuities or gifts from, seek personal loans, or by virtue of her/his position for personal gain purchase any property or services at special discount from any organization, firm, corporation, or person who is subject to regulation, inspection, licensing, certification, or audit by ARB.

III. Political Activity

- A. For the protection of the integrity of the California state service and the effective use of federal loans and grants, state and federal law prohibits certain political activities by state employees. These general provisions will be found in sections 3201 through 3209 of the Government Code and in the Hatch Act, 5 U.S.C. 1501 et seq.
- B. In addition to restrictions on political activities imposed by State law that apply to all employees, some employees are also subject to restrictions on political activities which are imposed by the federal government. Affected employees are those employed in activities of ARB entirely or partly financed by federal grants or loans. Since it is difficult to determine the extent to which an individual employee is affected, it is recommended that those who are in doubt as to their status consult with the ARB General Counsel before engaging in such activities.

Section 1501 of the Hatch Act (Act) applies only to employees of ARB whose employment is in an activity financed in whole or in part by loans or grants by the federal government. It is not required that a substantial percentage of the employee's work be concerned with federally financed activities for that employee to be affected by the Act. Employees who supervise and review the work of employees whose work is financed by federal funds are within the scope of the Act. The Act may not be applied to an employee whose work in connection with federally financed activities is considered negligible.

- C. No officer or employee of ARB whose principal employment is in connection with any activity which is financed in whole or part by loans or grants made by the federal government shall (1) use her/his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, (2) directly or indirectly coerce, attempt to coerce, or advise any other such officer or employee to pay, lend, or contribute any part of her/his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes, or (3) be a candidate for a partisan elective office. All such persons shall retain the right to vote as they choose and to express their opinions on all political subjects and candidates.
- D. No one who holds or who is seeking election or appointment to any office or employment in a state or local agency shall directly or indirectly use, promise, threaten, or attempt to use any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person or to aid or obstruct any individual person in securing any position, nomination, confirmation, promotion, or change in compensation or position within the state or local agency upon consideration or condition that the vote or political influence or action of such person or another shall be given or used in behalf of or withheld from any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action. (Section 3204, California Government Code.)

IV. Amendments to Statement

The limitations stated above do not attempt to specify every possible limitation on employee activity that might be determined and prescribed under the authority of section 19990 of the Government Code. If later experience shows a need for additions to, deletions from, or clarification of the limitations stated above, the Executive Officer of ARB will request the approval of the Department of Personnel Administration in making changes s/he determines necessary. Upon such approval, the above listing will be amended and notification provided to all employees.

V. Other Laws and Rules Apply

Nothing in this statement or listing shall be construed by any employee as the sole provisions of the law and administrative rules which must be observed by each state employee. Neither the limitations stated above nor any exceptions permitted thereunder shall affect, relieve, or excuse an officer or employee of liability for any act or omission which is a reason for rejection under section 19173 of the Government Code on any grounds other than incompatibility or which is a basis for a sanction under any other applicable provision of law or regulations.

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